

**PLANNING COMMISSION OF MONTEREY PARK
AGENDA**

**REGULAR MEETING
Monterey Park City Hall Council Chambers
320 West Newmark Avenue**

**Tuesday
May 9, 2017
7:00 PM**

MISSION STATEMENT

**The mission of the City of Monterey Park is to provide excellent services
to enhance the quality of life for our entire community.**

Documents related to an Agenda item are available to the public in the Community and Economic Development Department – Planning Division located at 320 West Newmark Avenue, Monterey Park, CA 91754, during normal business hours and the City's website at www.montereypark.ca.gov.

PUBLIC COMMENTS ON AGENDA ITEMS

You may speak up to 5 minutes on Agenda item. You may combine up to 2 minutes of time with another person's speaking. No person may speak more than a total of 10 minutes. The Board Chair and Board Members may change the amount of time allowed for speakers.

Per the Americans with Disabilities Act, if you need special assistance to participate in this meeting please call City Hall at (626) 307-1359 for reasonable accommodation at least 24 hours before a meeting. Council Chambers are wheelchair accessible.

CALL TO ORDER

Chairperson

FLAG SALUTE

Chairperson

SWEAR-IN

City Clerk

ROLL CALL

Ricky Choi, Larry Sullivan, Theresa Amador, Delario Robinson, and
Eric Brossy De Dios

AGENDA ADDITIONS, DELETIONS, CHANGES AND ADOPTIONS

PUBLIC COMMUNICATIONS (Related to Items NOT on the Agenda). While all comments are welcome, the Brown Act does not allow the Commission to take action on any item not on the agenda. The Commission may briefly respond to comments after Public Communications is closed. Persons may, in addition to any other matter within the Commission's subject-matter jurisdiction, comment on Agenda Items at this time. If you provide public comment on a specific Agenda item at this time, however, you cannot later provide comments at the time the Agenda Item is considered.

ORAL AND WRITTEN COMMUNICATIONS

[1.] PRESENTATIONS - None

[2.] CONSENT CALENDAR

2-A. REORGANIZATION OF THE MONTEREY PARK PLANNING COMMISSION

It is recommended that the Planning Commission consider:

- (1) Appointing the Chair and Vice-Chair pursuant to Monterey Park Municipal Code (MPMC) § 2.78.030; and
- (2) Take such additional, related, action that may be desirable.

2-B. FOOD TRUCK OVERVIEW

It is recommended that the Planning Commission:

- (1) Receive and file this report providing an overview of food truck regulations; and
- (2) Take such additional, related, action that may be desirable.

[3.] PUBLIC HEARING

3-A. CONDITIONAL USE PERMIT (CU-17-03) TO ALLOW A MESSAGE ESTABLISHMENT AT 1480 MONTEREY PASS ROAD

It is recommended that the Planning Commission:

- (1) Open the public hearing;
- (2) Receive documentary and testimonial evidence;
- (3) Close the public hearing;
- (4) Adopt the Resolution approving the requested Conditional Use Permit (CUP-17-03), subject to conditions of approval contained therein; and
- (5) Take such additional, related, action that may be desirable.

California Environmental Quality Act (CEQA):

Pursuant to the California Environmental Quality Act (CEQA) guidelines, the project is Categorically Exempt under § 15301, Class 1 (Existing Facilities) in that the project consist of operating and licensing of an existing establishment.

[4.] OLD BUSINESS - None

[5.] NEW BUSINESS - None

[6.] BOARD MEMBERS COMMUNICATIONS AND MATTERS

[7.] STAFF COMMUNICATIONS AND MATTERS

ADJOURN

Next regular scheduled meeting on May 23, 2017.

APPROVED BY:

MICHAEL A. HUNTLEY	
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Planning Commission Staff Report

DATE: May 9, 2017

AGENDA ITEM NO: 2-B

TO: The Planning Commission
FROM: Karl H. Berger, Assistant City Attorney
SUBJECT: Food Truck Overview

RECOMMENDATION:

It is recommended that the Planning Commission:

- (1) Receive and file this report providing an overview of food truck regulations; and
- (2) Take such additional, related, action that may be desirable.

EXECUTIVE SUMMARY:

At its meeting on February 28, 2017, the Planning Commission requested an overview regarding the regulations governing food trucks within the City's jurisdiction. An observation was made that the number of food trucks seemed to be increasing and the question was whether the City could regulate such vehicles. At the outset, please note that this is an informational item only. None of the existing regulations or potential new regulations regarding food trucks affect land use. Accordingly, while the Planning Commission can certainly provide its observations to the City Council, these regulations are not within the Planning Commission's legal authority.

BACKGROUND:

California law regulates food trucks through various statutes including:

- Vehicle Code § 22456 – provides general restrictions on food trucks including, without limitation, sign requirements; parking restrictions (cannot park on a street where the speed limit is greater than 25 mph; or within 100 feet of an intersection with a speed limit greater than 25 mph; or where an operator's view is obstructed); and special restrictions on ice cream trucks.
- Health and Safety Code § 114315 – food trucks must be operated within 200 feet of available restrooms.
- Health and Safety Code § 113705 – uniform health and sanitation standards for retail food facilities.

Health and Safety Code §§ 113709 and 113713 along with Vehicle Code § 22455 authorize the City to enact certain local regulations. Such regulations include:

- Adopt evaluation or grading system for food facilities.
- Prohibit any type of food facility.
- Adopt employee health certification program.
- Require consumer toilets and handwashing facilities.
- Adopt public safety regulations related to the type of vending or the time, place, and manner of vending, of food trucks, as allowed by the Vehicle Code.
- Prohibit the presence of pet dogs.

Pursuant to that authority, the City of Monterey Park adopted certain regulations affecting food trucks in Monterey Park Municipal Code (“MPMC”) Chapter 6.05. Specifically, the MPMC regulates “food establishments” within the City’s jurisdiction which includes “mobile food preparation units” (MPMC § 6.05.010). Further, a health officer has discretion to

“immediately close any food establishment which, upon completion of the routine or owner-initiated inspection, does not achieve a “C” grade or higher as defined in this chapter... [or] immediately clos[e] any food establishment if, in his discretion, immediate closure is necessary to protect the public health.” (MPMC § 6.05.070).

The City Council could, if it chose, adopt additional – or clarifying – regulations to accomplish the following:

- Require food truck operators to disclose route information to the City to facilitate inspections (see, e.g., Los Angeles County Code § 8.04.403 and Health & Safety Code § 113709).
- Prohibit food trucks with a grade of “C” or below from operating within the City.
- Limit the times of operation for food trucks.
- Prevent trucks from operating in certain locations if they might compromise public safety (e.g., by contributing to traffic or encouraging customers to walk into traffic).

The City Council could try prohibiting food trucks. Note, however, there is case law suggesting that the City is precluded from imposing a complete ban of food trucks on public right-of-ways.¹ The Vehicle Code was amended since that time to make it apparent that the City has some leeway in regulating food trucks. It is likely more defensible to limit the regulations to specific concerns such as the location or hours of

¹ *Barajas v. City of Anaheim* (1993) 15 Cal.App.4th 1808.

operations (for example, prohibit vendors from conducting business within a certain distance of schools, only operate between 10:00 a.m. and dusk), rather than completely ban such vendors.



Planning Commission Staff Report

DATE: May 9, 2017

AGENDA ITEM NO: 3-A

TO: The Planning Commission
FROM: Michael A. Huntley, Community and Economic Development Director
SUBJECT: A Public Hearing to Consider a Conditional Use Permit (CU-17-03) to allow a massage establishment – 1480 Monterey Pass Road.

RECOMMENDATION:

It is recommended that the Planning Commission consider:

- (1) Opening the public hearing;
- (2) Receiving documentary and testimonial evidence;
- (3) Closing the public hearing;
- (4) Adopting the Resolution approving the requested Conditional Use Permit (CUP-17-03), subject to conditions of approval contained therein; and
- (5) Take such additional, related, action that may be desirable.

CEQA (California Environmental Quality Act)

The proposed project is categorically exempt from the provision of the California Environmental Quality Act (CEQA) per State CEQA guidelines CEQA Guidelines § 15301 (Class 1 – Existing Facilities), because the project consist of the operation and licensing of an existing establishment.

EXECUTIVE SUMMARY:

The applicant, Ms Lu Lou of Annie Massage, is requesting approval of a Conditional Use Permit to allow a massage establishment at 1480 Monterey Pass Road. The property is zoned C-S (Commercial Service) and is designated C (Commercial) in the General Plan.

Staff is recommending approval of the Conditional Use Permit (CUP-17-03) subject to the conditions contained in the Resolution to address any concerns that are typically associated with a massage use. The subject tenant space is relatively small and provides space for a few foot massage chairs. The tenant space is located in a commercial plaza with several other businesses that generate regular foot traffic, which helps to minimize concerns regarding safety and security.

BACKGROUND:

The subject property is located one lot north of the northeast corner of the Monterey Pass Road and Brightwood Street. The subject lot is 18,790 square feet (0.43 acres) in size and is currently developed with two detached one-story commercial buildings situated in an L-shape configuration on the northern and eastern portions of the lot with parking located southwest, in front of the buildings. The commercial plaza is comprised of a mixture of commercial uses, including a retail eating establishment, liquor store and Laundromat. Properties located to the north and west include O-P (Office Professional) zoned lots, to the south are C-S (Commercial Services) zoned lots, and east are R-3 (High Density Residential) zoned lots. There are a total of 29 at-grade parking spaces. The property is accessible from Monterey Pass Road.

Project Description

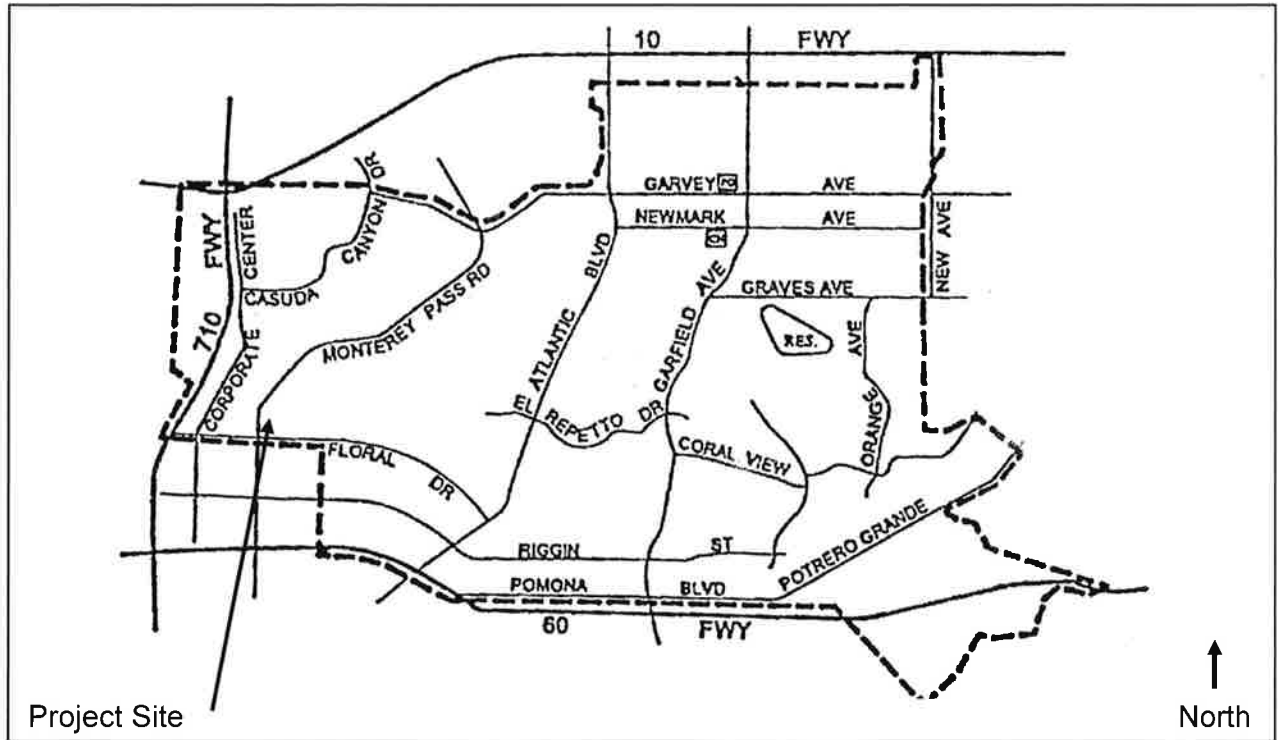
According to the floor plan, the subject unit is 600 square feet. The tenant space will have 4 foot massage chairs and a massage room that will have two massage beds. The remaining areas include a restroom and storage/utility room. The business operating hours will be Monday through Sunday from 10:00 a.m. to 8:30 p.m. and closed on Wednesday. The business owner currently operates a coin laundry business on the subject property.

According to MPMC § 21.12.030, a massage establishment is subject to the approval of a conditional use permit and must comply with regulations set forth in Chapter 5.28 Massage. According to MPMC § 5.28.110 Facilities and Operations, a massage business must comply with a list of specified requirements. Some of the requirements include minimum lighting, ventilation, and restroom to be provided in accordance with the California Building Code. The Police Department included condition numbers 6 through 12 in the Resolution to address security and alarm requirements. The Police Department will monitor the subject property relative to safety items such as hours of operation and required certifications.

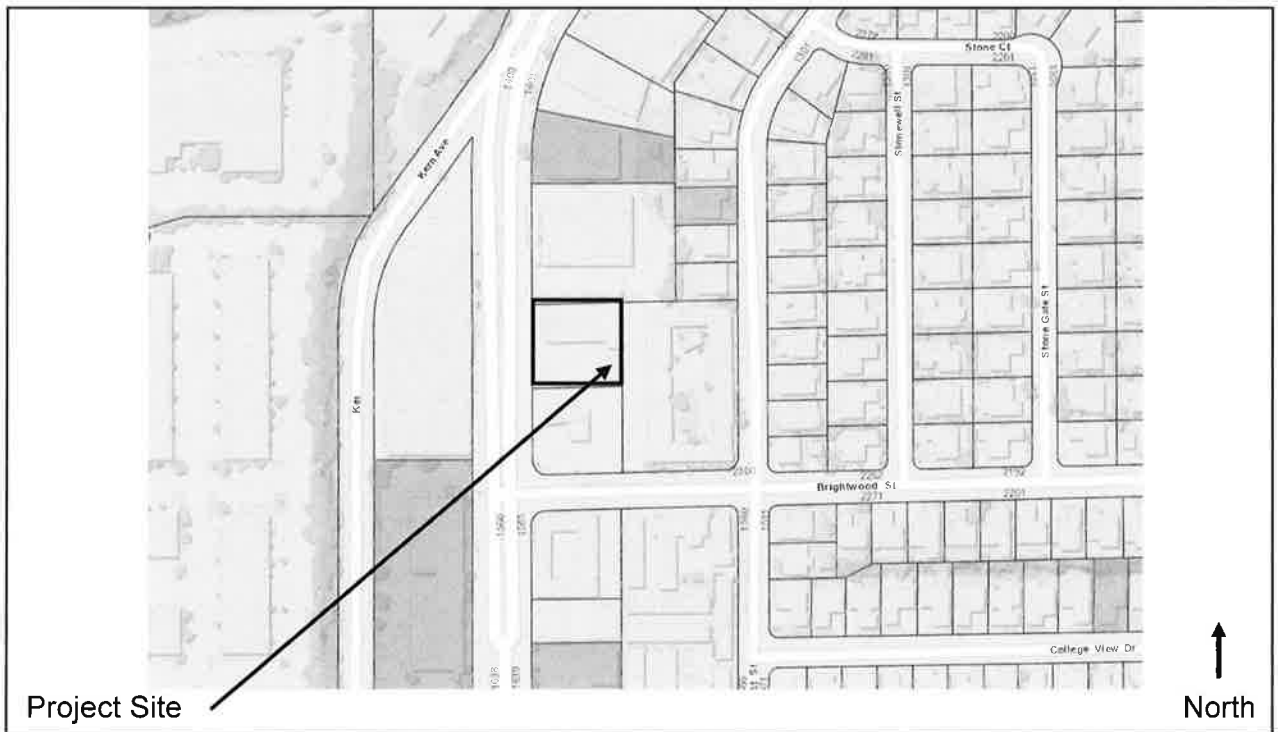
Legal Notification

The legal notice of this hearing was posted at City Hall, Monterey Park Bruggemeyer Library, and Langley Center on **April 28, 2017**, with affidavits of posting on file. The legal notice of this hearing was mailed to **58** property owners within a 300 feet radius and current tenants of the property concerned on **April 28, 2017**.

Vicinity Map



Street Map



Aerial Map



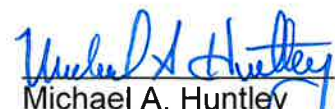
ALTERNATIVE COMMISSION CONSIDERATIONS:

None.

FISCAL IMPACT:

There may be an increase in sales tax revenue and business license tax revenue. Calculations of the exact amount would be speculative.

Respectfully submitted,


Michael A. Huntley
Community and Economic
Development Director

Prepared by:


Samantha Tewasart
Senior Planner

Reviewed by:


Karl H. Berger
Assistant City Attorney

Attachments:

- Attachment 1: Draft Resolution
- Attachment 2: Site and floor plans

ATTACHMENT 1

Draft Resolution

RESOLUTION NO.

A RESOLUTION APPROVING CONDITIONAL USE PERMIT (CUP-17-03) TO ALLOW A MASSAGE ESTABLISHMENT AT 1480 MONTEREY PASS ROAD

The Planning Commission of the City of Monterey Park does resolve as follows:

SECTION 1: The Planning Commission finds and declares that:

- A. On March 29, 2017, Ms. Lu Lou, submitted an application, pursuant to Monterey Park Municipal Code ("MPMC") §§ 21.10.230 and 21.32.020, requesting approval of Conditional Use Permit (CUP-17-03) to allow a massage establishment at 1480 Monterey Pass Road ("Project");
- B. The proposed Project was reviewed by the City of Monterey Park Community and Economic Development Department for, in part, consistency with the General Plan and conformity with the MPMC;
- C. In addition, the City reviewed the Project's environmental impacts under the California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.*, "CEQA") and the regulations promulgated thereunder (14 California Code of Regulations §§ 15000, *et seq.*, the "CEQA Guidelines");
- D. The Community and Economic Development Department completed its review and scheduled a public hearing regarding the Project before the Planning Commission for May 9, 2017. Notice of the public hearing was posted and mailed as required by the MPMC;
- E. On May 9, 2017, the Planning Commission held a public hearing to receive public testimony and other evidence regarding the proposed Project, including, without limitation, information provided to the Planning Commission by City staff and public testimony, and representatives of Lu Lou; and
- F. This Resolution and its findings are made based upon the testimony and evidence presented to the Commission at its May 9, 2017 hearing including, without limitation, the staff report submitted by the Community and Economic Development Department.

SECTION 2: *Factual Findings and Conclusions.* The Planning Commission finds that the following facts exist and makes the following conclusions:

- A. The Applicant seeks to establish a massage business within an existing multi-tenant commercial plaza;
- B. 1480 Monterey Pass Road is zoned C-S (Commercial Services) and designated Commercial in the General Plan;
- C. The subject property is located one lot north of the northeast corner of the Monterey Pass Road and Brightwood Street;
- D. The commercial plaza is comprised of a mixture of commercial uses, including a retail eating establishment, liquor store and Laundromat. Properties located to the north and

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west include O-P (Office Professional) zoned lots, to the south are C-S (Commercial Services) zoned lots, and east are R-3 (High Density Residential) zoned lots;

- E. The subject lot is 18,790 square feet (0.43 acres) in size and is currently developed with two detached one-story commercial buildings situated in an L-shape configuration on the northern and eastern portions of the lot with parking located southwest, in front of the buildings; and
- F. There are a total of 29 at-grade parking spaces. The property is accessible from Monterey Pass Road.

SECTION 3: Environmental Assessment. Because of the facts identified in Section 2 of this Resolution, the Project is categorically exempt from additional environmental review pursuant to CEQA Guidelines § 15301 (Existing Facilities).

SECTION 4: Conditional Use Permit Findings. Pursuant to MPMC §§ 21.10.230 (B) and 21.32.020, the Planning Commission finds as follows:

- A. That the site is adequate in size, shape and topography for the proposed use including without limitation, any required yards, walls, fences, parking and loading facilities, landscaping, setbacks, and other development standards prescribed in this code;

The site is adequate in size, shape and topography for the proposed use in that the proposed use is a massage business within an existing commercial plaza with multiple tenant spaces. No physical changes are proposed to the site;

- B. That the site has sufficient access to streets and highways, adequate in width and pavement type to carry the quantity and quality of traffic generated by the proposed use;

The site has sufficient access to streets and highways, adequate in width and pavement type to carry the quantity and quality of traffic generated by the proposed use. The proposed use is a massage business within an existing commercial plaza and is not expected to significantly increase traffic;

- C. That the proposed use is consistent with the General Plan and any applicable specific plan; and

The proposed use is consistent with the General Plan and conforms to objectives of the General Plan and the Monterey Park Municipal Code zoning regulations. The subject property is designated Commercial in the General Plan. The Commercial land use category allows for a broad range of retail and service commercial and professional office uses. The proposed use is a massage establishment within an existing commercial plaza. A massage establishment is allowed in the C-S (Commercial Services) Zone with Conditional Use Permit approval;

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- D. That the proposed use will not create unusual noise, traffic, or other conditions that may be objectionable, detrimental, or incompatible with surrounding properties or other permitted uses in the City;

The proposed use, as conditioned, will not have an adverse effect on the use, enjoyment or valuation of property in the neighborhood as required security measures will minimize the potential for any negative impacts.

- E. That the proposed use will not have an adverse effect on the public health, safety and general welfare; and

The proposed use will not have an adverse effect on the public health, safety, and general welfare because security measures and the limited size of the use will limit any potential adverse effects to neighboring properties.

- F. That the use applied for at the location set forth in the application is properly one authorized by conditional use permit pursuant to the Zoning Code.

The proposed massage establishment is a conditionally allowed use in the zone. The subject space is 600 square feet, which will be relatively small and generate minimal impacts to traffic and parking demands. Conditions have been included in the Resolution to address concerns relating to safety and security.

SECTION 5: *Approval.* Subject to the conditions listed on the attached Exhibit "A," which are incorporated into this Resolution by reference, the Planning Commission approves Conditional Use Permit (CUP-17-03).

SECTION 6: *Reliance on Record.* Each and every one of the findings and determinations in this Resolution are based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the project. The findings and determinations constitute the independent findings and determinations of the Planning Commission in all respects and are fully and completely supported by substantial evidence in the record as a whole.

SECTION 7: *Limitations.* The Planning Commission's analysis and evaluation of the project is based on the best information currently available. It is inevitable that in evaluating a project that absolute and perfect knowledge of all possible aspects of the project will not exist. One of the major limitations on analysis of the project is the Planning Commission's lack of knowledge of future events. In all instances, best efforts have been made to form accurate assumptions. Somewhat related to this are the limitations on the City's ability to solve what are in effect regional, state, and national problems and issues. The City must work within the political framework within which it exists and with the limitations inherent in that framework.

SECTION 8: *Summaries of Information.* All summaries of information in the findings, which precede this section, are based on the substantial evidence in the record. The absence of any

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particular fact from any such summary is not an indication that a particular finding is not based in part on that fact.

SECTION 9: This Resolution will remain effective until superseded by a subsequent resolution.

SECTION 10: A copy of this Resolution will be mailed to Lu Lou and to any other person requesting a copy.

SECTION 11: This Resolution may be appealed within ten (10) calendar days after its adoption. All appeals must be in writing and filed with the City Clerk within this time period. Failure to file a timely written appeal will constitute a waiver of any right of appeal.

SECTION 12: Except as provided in Section 9, this Resolution is the Planning Commission's final decision and will become effective immediately upon adoption.

ADOPTED AND APPROVED this 9th day of May 2017.

Chairperson Ricky Choi

I hereby certify that the foregoing Resolution was duly adopted by the Planning Commission of the City of Monterey Park at the regular meeting held on the 9th day of May 2017, by the following vote of the Planning Commission:

AYES:
NOES:
ABSTAIN:
ABSENT:

Michael A. Huntley, Secretary

APPROVED AS TO FORM:
Mark D. Hensley, City Attorney

By:



Karl H. Berger
Assistant City Attorney

PLANNING COMMISSION RESOLUTION NO.

Exhibit A

CONDITIONS OF APPROVAL

1480 MONTEREY PASS ROAD

In addition to all applicable provisions of the Monterey Park Municipal Code ("MPMC"), Ms. Lu Lou, agrees to comply with the following conditions of approval for Conditional Use Permit (CUP-17-03) ("Project Conditions").

PLANNING:

1. Ms. Lu Lou of Annie Massage (the "Applicant") agrees to indemnify and hold the City harmless from and against any claim, action, damages, costs (including, without limitation, attorney's fees), injuries, or liability, arising from the City's approval of CUP-17-03 except for such loss or damage arising from the City's sole negligence or willful misconduct. Should the City be named in any suit, or should any claim be brought against it by suit or otherwise, whether the same be groundless or not, arising out of the City approval of CUP-17-03, the Applicant agrees to defend the City (at the City's request and with counsel satisfactory to the City) and will indemnify the City for any judgment rendered against it or any sums paid out in settlement or otherwise. For purposes of this section "the City" includes the City of Monterey Park's elected officials, appointed officials, officers, and employees.
2. The conditional use permit expires twelve months after its approval if the use has not commenced or if improvements are required, but construction has not commenced under a valid building permit. A total of a year extension may be granted by the Planning Commission upon finding of good cause. An application requesting an extension must be filed with the Community and Economic Development Director, or designee.
3. The property owner is responsible for maintaining the area adjacent to the business location and the site in general, including any parkways and alleys.
4. The property must remain well maintained and free of graffiti. Failure of the applicant/property owner to remove graffiti within 24 hours written notice by the City will cause the City to abate the graffiti at the cost of the applicant/property owner.
5. A copy of the Conditions of Approval for Conditional Use Permit (CUP-17-03) must be kept on the premises of the establishment and presented to any authorized City official upon request.

POLICE:

6. The business must have security video cameras operating during all hours of business. All cameras must record onto a media device, such as a videotape,

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digital storage CPU, DVR or similar recording device. The recordings of the security video cameras must be maintained for a minimum period of 30 days, and the recordings must be made immediately available for any law enforcement officer who is making the request as a result of official law enforcement business. The video cameras must be located to cover the main areas that are accessible to the public, including the entrance/exits and all interiors of each room. If the Chief of Police determines that there is a necessity to have additional security cameras installed, the manager/owner of the business must comply with the request within 7 days. The Chief of Police can also require the position of the video cameras to be changed if it is determined that the position of the camera does not meet security needs. The manager/owner of the business must comply with the request within 7 days. The picture quality of the video cameras and recording devices installed on the complex must meet the approval of the Chief of Police.

7. There must be no designated enclosed private booths/rooms for patrons.
8. No alcoholic beverages shall be permitted.
9. The business must be equipped with an alarm system that covers break-ins and robberies. The alarm must be monitored by an alarm monitoring company who will notify the Monterey Park Police of any break-ins or robberies. Employees must have access to a hidden button that will trigger a silent alarm, notifying the alarm monitoring company that a robbery is taking place. The manager/owner will obtain an alarm permit from the Monterey Park Police Department. The permit may be obtained by calling the Monterey Park Police Community Service Bureau.
10. The business should participate in the Monterey Park Police Department's Business Watch Program, a free service designed to educate business about minimizing criminal activity.
11. If three or more substantiated complaints within any one year period are received by the Monterey Park Police Department regarding disturbances caused by patrons of the business, whether inside or within close proximity, revocation proceedings will be initiated by the City.
12. The manager/owner must be responsible for maintaining the property free of litter and graffiti.

By signing this document, Ms. Lu Lou, that she read, understood, and agrees to the Project Conditions listed in this document.

Ms. Lu Lou, Applicant

ATTACHMENT 2

Site and floor plans